IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 36 of 2005

Between:

Koraada Bharathi W/0 Jaganmohan Rao,

30 years, Tilak colony, 8th ward, Eluru, W.G.Dt.

..... PETITIONER

AND

The Eluru Municipal Council, represented by its

Commissioner, Eluru, W G Dt.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or orders or direction more particularly one in the nature of mandamus, declaring the action of the respondent threatening to demolish the residential house of the petitioner situated at Tilak colony, 8th ward, Eluru, W GDt, in an extent of 0.99 sq. yards as illegal, arbitrary and violative of Art. 14 and 300-A of The Constitution of India and consequently direct the respondent not to demolish the said house.

Counsel for the Petitioner: MR.R.SRIDHAR

Counsel for the Respondent: MR.S.NAGESWARA REDDY

The Court made the following :

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ORAL ORDER:

Heard the learned counsel for the petitioner and also the learned Standing counsel for the respondent. At their request, the writ petition is disposed of at the stage of admission.

2 . Petitioner submits that she has been in occupation of waste poramboke land situated at Tilak colony, Eluru, in an extent of 0-99 sq. yards, for the last 30 years, by raising a thatched house therein and that the respondent, without following due procedure of law, is trying to demolish the said structure.

3 . This Court, in catena of cases, held that even an occupier or an encroacher is entitled to be given a prior notice and only after following due process of law, he can be evicted from the suit schedule.

4. In view of the same, the respondent, without issuing any notice to the petitioner under the AP Municipalities Act, cannot evict her from the schedule land by demolishing the said structure.

5 . Therefore, the Writ petition is disposed of with a direction to the respondent to follow the due process of law, before evicting the petitioner from the schedule property. No costs.

5th January 2005.

NB:

Issue the operative portion by wire

at the party's costs.

B/o

SKM

To

1. The Eluru Municipal Council, represented by its

Commissioner, Eluru, W G Dt.

2. Two C D copies.